United States General Accounting Office

GAO

Supplement to a Fact Sheet for the Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives

July 1991

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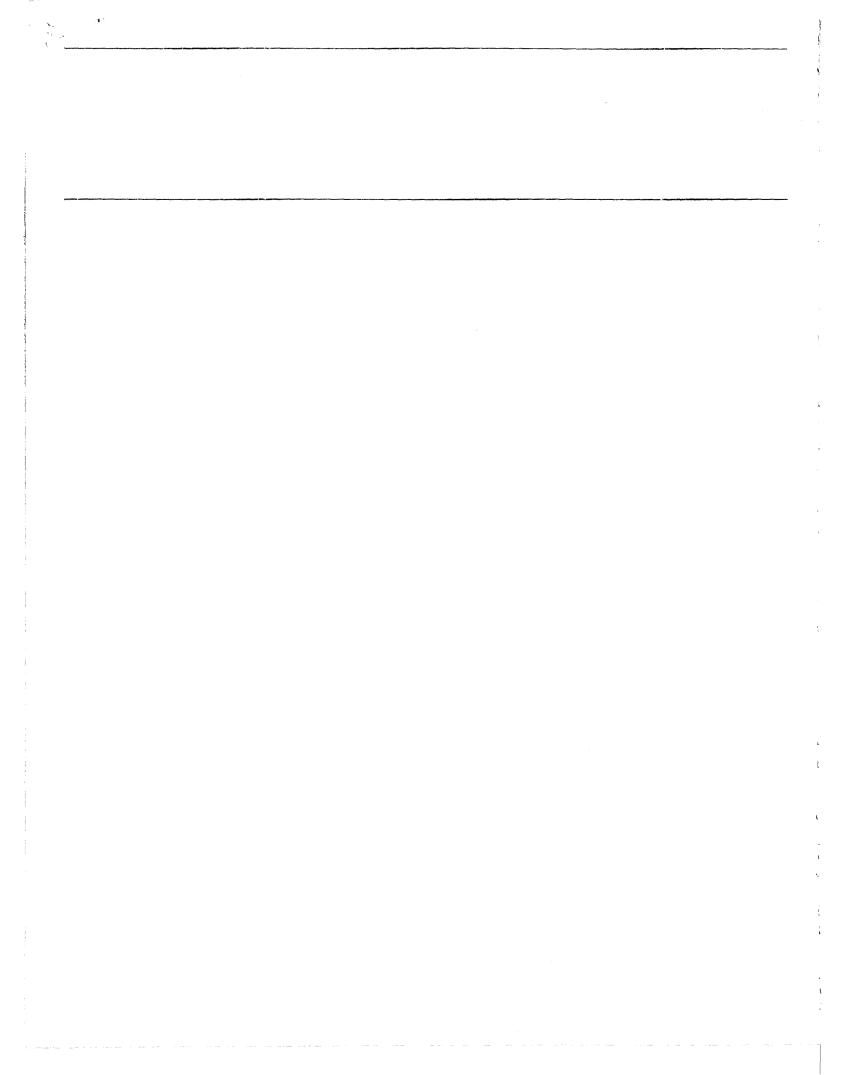
Federal Agency Use of Nondisclosure Agreements





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United States General Accounting Office Washington, D.C. 20548

National Security and International Affairs Division

B-215075

July 5, 1991

The Honorable John Conyers, Jr. Chairman, Legislation and National Security Subcommittee Committee on Government Operations House of Representatives

Dear Mr. Chairman:

As you requested, we are providing this information as a supplement to our report Information Security: Federal Agency Use of Nondisclosure Agreements (GAO/NSIAD-91-106FS, Jan. 18, 1991). We compiled this information from responses to a questionnaire you sent to 54 federal agencies that handle classified information. The resulting information includes actual figures, as well as estimates where actual data were not available from the 48 agencies that responded. We did not verify the information reported by the agencies.

We plan no further distribution of this report until 7 days from the date of this letter unless you publicly announce its contents earlier.

Appendix I contains a list of federal agencies that responded to the questionnaire. Appendix II contains detailed information on what federal agencies reported on their classified information nondisclosure agreement and prepublication review activities.

Please contact me at (202) 275-8412 if you or your staff have any questions.

Sincerely yours,

Donna M. Heivilin

Director, Logistics Issues

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Abbreviations

SAP	Special Access Program
SCI	Sensitive Compartmented Information

Questionnaire Recipients

Recipients Responding to the Questionnaire

ACDA U.S. Arms Control and Disarmament Agency Agency for International Development AID **BFIB Board for International Broadcasting** Central Intelligence Agency CIA Department of Commerce Commerce Department of Defense DOD DOE Department of Energy Department of Transportation DOT

ED Department of Education EPA Environmental Protection Agency

EXIMBANK Export-Import Bank of the United States

FBI Federal Bureau of Investigation FCA Farm Credit Administration

FCC Federal Communications Commission FEMA Federal Emergency Management Agency

FMC Federal Maritime Commission FRS Federal Reserve System

GSA General Services Administration

HHS Department of Health and Human Services
HUD Department of Housing and Urban Development

ICC Interstate Commerce Commission
INS Immigration and Naturalization Service

Interior Department of the Interior
Justice Department of Justice
DOL Department of Labor

MMC Marine Mammal Commission
MSPB Merit Systems Protection Board

NARA National Archives and Records Administration NASA National Aeronautics and Space Administration

NRC Nuclear Regulatory Commission
NSF National Science Foundation
OMB Office of Management and Budget

OPIC Overseas Private Investment Corporation

OPM Office of Personnel Management
OTS Office of Thrift Supervision

PC Peace Corps

SBA Small Business Administration SEC Securities and Exchange Commission

SSS Selective Service System
State Department of State
Treasury Department of Treasury
TVA Tennessee Valley Authority

Appendix I Questionnaire Recipients

	USDA USIA	Department of Agriculture U.S. Information Agency
	USITC	U.S. International Trade Commission
	USPS	U.S. Postal Service
	USTR	U.S. Trade Representative
	VA	Department of Veterans Affairs
Recipients Not	CEA	Council of Economic Advisers
<u> </u>	EOP	Executive Office of the President
Responding to the	NSC	National Security Council
Questionnaire	OSTP	Office of Science and Technology Policy
	PFIAB	President's Foreign Intelligence Advisory Board
	PIOB	President's Intelligence Oversight Board

Responses to Questionnaire

We compiled the following information from responses to the questionnaire you sent to 54 agencies that handle classified information. The resulting information includes actual figures, as well as estimates where actual data were not available from the 48 agencies that responded. The following tables show the data each agency reported in response to a question or a part of a question. If an agency reported no data it will not be included in a table. We did not verify the information reported by the agencies.

Question 1

How many federal and contractor employees signed the Standard Form 312, Form 4355, or a similar form requiring nondisclosure of classified information during the period beginning October 1, 1989, and ending March 31, 1990? How many federal and contractor employees signed the Standard Form 312, Form 4355, or a similar form during October 1989?

Response

Tables II.1 through II.4 provide agency responses to question 1.

Table II.1: Nondisclosure Agreements Signed by Federal Employees From October 1, 1989 Through March 31, 1990

		7.	ype of agreem	ont	
Agency	SF* 312	FM ^b 4355	DD ^c 1847-1	NSAd G170	Other
ACDA	16	3	0	0	0
AID	209	0	0	0	0
BFIB	1	0	0	0	0
Commerce	527	0	0	0	0
DOD	104,215	0	19,895	1,644	0
DOE	400	30	0	0	0
DOL	10	0	0	0	0
DOT	7,043	0	0	0	0
ED	2	0	0	0	0
EPA	60	0	0	0	0
EXIMBANK	7	0	0	0	0
FBI	489	539	0	0	0
FCC	25	0	0	0	0
FEMA	150	0	0	0	0
FMC	6	0	0	0	0
FRS	101	0	0	0	102°
GSA	91	0	0	0	0
HHS	30	0	0	0	0
HUD	26	0	0	0	0
INS	278	0	0	0	0
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Appendix II Responses to Questionnaire

<u></u>		Ty	ype of agreem	ent	
Agency	SF* 312	FM ^b 4355	DD ^c 1847-1	NSAd G170	Other
Interior	129	39	0	0	0
Justice	0	89	0	0	0
MSPB	39	0	0	0	0
NARA	51	0	0	0	0
NASA	432	27	0	0	0
NRC	80	5	0	0	0
NSF	4	0	0	0	0
OMB	50	0	0	0	0
OPIC	95	0	0	0	0
ОРМ	37	0	0	0	0
PC	33	0	0	0	0
SBA	34	0	0	0	0
SEC	4	0	0	0	0
State	2,222	300	0	0	0
Treasury	3,388	131	0	0	0
TVA	11	0	0	0	0
USDA	130	0	0	0	0
USIA	108	18	0	0	0
USITC	46	0	0	0	0
USPS	22	0	0	0	0
USTR	46	0	0	0	0
VA	62	0	0	0	0
Total	120,709	1,181	19,895	1,644	102

^aSF - Standard Form

^bFM - Form

^cDD - Department of Defense

^dNSA - National Security Agency

eIncludes 101 FR 1406s and 1 Federal Emergency Management Agency Form 12-38.

Table II.2: Nondisclosure Agreements Signed by Contractor Employees From October 1, 1989 Through March 31, 1990

	Type of agreement						
Agency	SF 312	FM 4355	DD 1847-1	NSA G170B			
AID	159	0	0	0			
DOD	79,000	0	8,680	1,716			
DOE	7,750	100	0	0			
FBI	331	0	0	0			
NASA	0	1	0	0			
NRC	127	0	0	0			
OPIC	5	0	0	0			
State	214	10	0	0			
Total	87,586	111	8,680	1,716			

Table II.3: Nondisclosure Agreements Signed by Federal Employees in October 1989

	Type of agreement					
Agency	SF 312	FM 4355	DD 1847-1	FR* 1406	NSA G170	
ACDA	4	1	0	0	0	
AID	37	0	0	0	0	
BFIB	1	0	0	0	0	
Commerce	98	0	0	0	0	
DOD	9,297	0	2,738	0	271	
DOE	60	10	0	0	0	
DOL	4	0	0	0	0	
DOT	363	0	0	0	0	
EPA	2	0	0	0	0	
EXIMBANK	4	0	0	0	0	
FBI	48	117	0	0	0	
FCC	3	0	0	0	0	
FEMA	40	0	0	0	0	
FMC	1	0	0	0	0	
FRS	11	0	0	11	0	
GSA	9	0	0	0	0	
HUD	1	0	0	0	0	
INS	67	0	0	0	0	
Justice	0	19	0	0	0	
MSPB	19	0	0	0	0	
NARA	8	0	0	0	0	
NRC	14	1	0	0	0	
OMB	7	0	0	0	0	
OPIC	1	0	0	0	0	
OPM	2	0	0	0	0	
SBA	3	0	0	0	0	
					(continued)	

Agency		•	Type of agreem	ent	
	SF 312	FM 4355	DD 1847-1	FR ^a 1406	NSA G170
SEC	2	0	0	0	0
State	180	40	0	0	0
Treasury	267	38	0	0	0
TVA	3	0	0	0	0
USDA	13	0	0	0	0
USIA	22	5	0	0	0
VA	15	0	0	0	0
Total	10,606	231	2,738	11	271

^aFR - Federal Reserve

Table II.4: Nondisclosure Agreements Signed by Contractor Employees in October 1989

Agency	Type of agreement					
	SF 312	FM 4355	DD 1847-1	NSA G170B		
AID	41	0	0	0		
DOD	15,000	0	1,776	269		
DOE	1,200	50	0	0		
NRC	20	0	0	0		
State	28	0	0	C		
Total	16,289	50	1,776	269		

Question 2

How much did federal agencies spend to implement, administer, and execute the signing of forms requiring nondisclosure of classified information during the period beginning October 1, 1989, and ending March 31, 1990, and during October 1989?

Response

Tables II.5 through II.8 provide agency responses to question 2.

Table II.5: Agency Costs to Implement Nondisclosure Agreements Signed by Federal Employees From October 1, 1989 Through March 31, 1990

	Type of agreement					
Agency	SF 312	FM 4355	DD 1847-1	NSA G170		
AID	\$60	\$0	\$0	\$0		
BFIB	10	0	0	0		
Commerce	527	0	0	0		
DOD	273,389	0	70,126	2,184		
DOE	200	250	0	0		
DOT	56,000	0	0	0		
ED	51	0	0	0		
EPA	3,500	0	0	0		
		11.11		(aantinuad)		

		Type of a	agreement	
Agency	SF 312	FM 4355	DD 1847-1	NSA G170
FMC	550	0	0	0
FRS	500	0	0	0
GSA	1,274	0	0	0
HUD	75	0	0	0
INS	5,100	0	0	0
Interior	2,333	975	0	0
Justice	0	150	0	0
NARA	153	0	0	0
NASA	600	80	0	0
NRC	500	250	0	0
OPIC	262	0	0	0
PC	300	0	0	0
SBA	850	0	0	0
SSS	408	0	0	0
Treasury	10,181	952	0	0
TVA	106	0	0	0
USDA	644	0	0	0
USITC	100	0	0	0
USTR	250	0	0	0
VA	141	0	0	0
Total	\$358,064	\$2,657	\$70,126	\$2,184

Table II.6: Agency Costs to Implement Nondisclosure Agreements Signed by Contractor Employees From October 1989 Through March 1990

		Type of	Agreement	
Agency	SF 312	FM 4355	DD 1847-1	NSA G170B
AID	\$60	\$0	\$0	\$0
DOD	0	0	5,090	2,348
DOE	3,900	850	0	0
NASA	0	3	0	0
NRC	150	0	0	0
OPIC	13	0	0	0
Total	\$4,123	\$853	\$5,090	\$2,348

Table II.7: Agency Costs to Implement Nondisclosure Agreements Signed by Federal Employees in October 1989

		Type of a	greement	
Agency	SF 312	FM 4355	DD 1847-1	NSA G170
ACDA	\$4	\$1	\$0	\$0
AID	37	0	0	0
Commerce	98	0	0	0
DOD	6,055	0	2,880	392

	Type of agreement					
Agency	SF 312	FM 4355	DD 1847-1	NSA G170		
DOE	30	90	0	0		
DOT	2,400	0	0	0		
EPA	100	0	0	0		
FRS	70	0	0	0		
GSA	126	0	0	0		
INS	1,200	0	0	0		
Interior	6	0	0	0		
Justice	0	30	0	0		
MSPB	19	0	0	0		
NARA	29	0	0	0		
NRC	75	50	0	0		
OPM	2	0	0	0		
SBA	80	0	0	0		
Treasury	849	225	0	0		
TVA	30	0	0	0		
USDA	65	0	0	0		
VA	1,700	0	0	0		
Total	\$12,975	\$396	\$2,880	\$392		

Table II.8: Agency Costs to Implement Nondisclosure Agreements Signed by Contractor Employees in October 1989

		Type of	agreement	
Agency	SF 312	FM 4355	DD 1847-1	NSA G170
AID	\$41	\$0	\$0	\$0
DOD	0	0	275	361
DOE	6,000	420	0	0
FMC	70	0	0	C
NRC	25	0	0	O
Total	\$6,136	\$420	\$275	\$361

Question 3

Approximately how many books, articles, speeches, and other materials received prepublication review between October 1, 1989, and March 31, 1990, and in October 1989? What were the reasons for prepublication review?

Response

Tables II.9 through II.16 provide agency responses to Question 3. Items reported in the "Other" category generally include such material as

book reviews, brochures, technical papers, letters to the editor, editorials, briefings, and slides. The CIA reported that it conducted 443 prepublication reviews between October 1, 1989 and March 31, 1990, and 57 reviews in October 1989. We were unable to classify the reviews by type of material because some items were reviewed for more than one reason.

Table II.9: Prepublication Reviews Required by Regulations From October 1989 Through March 1990

	Items reviewed					
Agency	Books	Articles	Speeches	Other		
ACDA	0	3	0	0		
AID	0	12	0	0		
DOD	140	2,722	1,722	5,300		
FBI	1	2	0	5		
State	0	42	14	2		
USIA	2	2	0	2		
Total	143	2,783	1,736	5,309		

Table II.10: Prepublication Reviews
Required by SCI Agreement From
October 1, 1989 Through March 31, 1990

Agency		Items	reviewed	
	Books	Articles	Speeches	Other
DOD	13	125	10	41
DOT	0	1	0	0
Interior	0	1	0	0
Total	13	127	10	41

Table II.11: Prepublication Reviews
Required by Non-SCI Agreement
Between October 1989 and March 1990

		Items	reviewed	
Agency	Books	Articles	Speeches	Other
DOD	1	5	1	0
FEMA	0	0	5	0
Total	1	5	6	0

Table II.12: Prepublication Reviews
Required for Other Reasons Between
October 1, 1989 and March 31, 1990

		Items	reviewed	
Agency	Books	Articles	Speeches	Other
ACDA	6	0	0	0
DOD	0	0	0	60
ED	0	0	0	144
Total	6	0	0	204

Table II.13: Prepublication Reviews					
Required by Regulations in October 1989	Agency	Books	Items Articles	reviewed Speeches	Othe
	Agency DOD	8	451	303	752
	FBI	0	0	0	7.00
	FEMA	0	0	12	(
	State	0	11	7	
	USIA	0	0	0	
	Total	8	462	322	75
Table II.14: Prepublication Reviews					
Required by SCI Agreement in			Items	reviewed	
October 1989	Agency	Books	Articles	Speeches	Other
	DOD	0	18	0	1
	Total	0	18	0	1
Table II.15: Prepublication Reviews Required by Non-SCI Agreement in					
October 1989	Agency	Books	Articles	reviewed Speeches	Othe
	DOD	1	0	0	Other (
	FEMA	0	5	8	
	Total	1	5	8	
Table II.16: Prepublication Reviews					
Required for Other Reasons in			items	reviewed	
October 1989	Agency	Books	Articles	Speeches	Othe
	ED	0	0	0	18
	Total	0	0	0	18

Tables II.17 and II.18 provide agency responses to question 4.

Response

Table II.17: Agency Costs of Prepublication Reviews Conducted Between October 1, 1989 and March 31, 1990

		Items re	eviewed	
Agency	Books	Articles	Speeches	Other
ACDA	\$0	\$500	\$0	\$0
AID	0	450	0	0
DOD	49,854	386,538	174,707	115,584
ED	0	0	0	19,100
FBI	560	798	0	1,956
FEMA	0	500	125	. 0
Interior	0	50	0	0
Total	\$50,414	\$388,836	\$174,832	\$136,640

Table II.18: Agency Costs of Prepublication Reviews Conducted in October 1989

		Ite	ms reviewed	
Agency	Books	Articles	Speeches	Other
DOD	\$3,256	\$36,780	\$1,746	\$5,752
ED	0	0	0	3,185
FBI	0	0	0	336
Total	\$3,256	\$36,780	\$1,746	\$9,273

Question 5

How many federal agency and contractor employees signed an SF 189, SF 189-A, SF 312, Form 4193, Form 4355, DD Form 1847-1, or other nondisclosure agreement during calendar years 1988 and 1989?

Response

Tables II.19 through II.22 provide agency responses to question 5.

Table II.19: Nondisclosure Agreements Signed by Federal Employees in 1988

		Type of agreement						
Agency	SF 189	SF 312	FM 4355°	DD 1847-1	Otherb			
ACDA	16	3	24	0	0			
AID	0	123	0	0	0			
BFIB	0	3	0	0	0			
Commerce	1,015	338	0	0	0			
DOD	1,881	270,215	0	47,131	4,025			
DOE	650	220	125	0	0			
DOL	0	9	0	0	0			
DOT	0	150	0	39	Ō			
ED	0	10	0	0	0			
EPA	0	50	0	0	0			
					(continued)			

***			ype of agreen	nent	
Agency	SF 189	SF 312	FM 4355*	DD 1847-1	Otherb
EXIMBANK	0	14	0	0	0
FBI	0	3,239	1,123	0	0
FCC	0	50	0	0	0
FEMA	125	0	0	0	0
FMC	1	0	0	0	0
FRS	0	0	6	0	141
GSA	4	53	0	0	0
HHS	0	60	6	0	10
HUD	0	5	0	0	0
INS	227	59	0	0	0
Interior	64	98	33	0	0
Justice	470	136	183	0	0
NARA	0	9	0	0	25
NASA	395	461	100	0	0
NRC	0	0	7	0	0
NSF	2	13	0	0	0
OMB	0	21	0	0	0
OPIC	0	1	0	0	0
ОРМ	25	16	0	0	0
PC	0	47	0	0	0
SBA	0	9	0	0	0
SEC	0	8	0	0	0
SSS	0	2	0	0	0
State	0	342	250	5	0
Treasury	580	310	156	0	34
TVA	0	13	0	0	0
USDA	53	28	0	0	0
USIA	2,740	0	11	0	0
USITC	47	113	0	0	0
USPS	1	0	0	0	0
USTR	0	5	0	0	0
VA	2	376	1	0	0
Total	8,298	276,609	2,025	47,175	4,235

^aIncludes 182 Form 4193s, which was replaced by FM 4355.

^bIncludes 4,025 NSA G170s, 10 FEMA 12-38s, 25 NA 3026s, and 34 DOE 5630.18s.

Table II.20: Nondisclosure Agreements Signed by Contractor Employees in 1988

	Type of agreement					
Agency	SF 189A*	SF 312	FM 4355	DD 1847-1	NSA G170B	
AID	0	36	0	0		
DOD	1,250,000	0	0	4,620	3,461	
DOE	15,000	5,000	300	0	C	
HHS	0	1	0	0	C	
Interior	1	5	0	0	C	
Justice	408	279	0	0	(
NARA	0	1	0	0	C	
NRC	135	0	0	0	(
State	7	7	15	0	(
Total	1,265,544	5,329	315	4,620	3,461	

^aIncludes 1 SF 189 administered by Interior.

Table II.21: Nondisclosure Agreements Signed by Federal Employees in 1989

	<u></u>		Type of agree		
Agency	SF 189	SF 312	FM 4355 ^a	DD 1847-1	Otherb
ACDA	0	30	14	0	0
AID	0	523	0	0	0
BFIB	0	1	0	0	0
Commerce	0	1,387	0	0	0
DOD	434	160,193	0	50,723	3,805
DOE	0	770	130	0	0
DOL	0	51	0	0	0
DOT	0	7,025	0	75	0
ED	0	13	0	0	0
EPA	0	365	0	0	0
EXIMBANK	0	17	0	0	0
FBI	0	1,911	1,119	0	0
FCC	0	50	0	0	0
FEMA	125	250	0	0	0
FRS	0	0	0	0	118
GSA	1	291	0	0	Ō
HHS	0	80	6	0	12
HUD	0	21	0	0	0
INS	0	570	0	0	0
Interior	0	121	70	0	0
Justice	0	0	200	0	0
MSPB	0	37	0	0	0
NARA	0	85	0	0	0
NASA	0	815	93	0	278
					(continued)

		Т	ype of agreen	nent	
Agency	SF 189	SF 312	FM 4355°	DD 1847-1	Otherb
NRC	0	318	9	0	0
NSF	0	9	0	0	0
OMB	0	82	0	0	0
OPIC	0	12	0	0	0
OPM	0	56	0	0	0
PC	0	145	0	0	0
SBA	0	45	0	0	0
SSS	0	5	0	0	0
State	0	2,558	300	6	0
Treasury	6	2,827ª	2,472	0	24
TVA	0	136	0	0	0
USDA	0	271	0	0	0
USIA	0	0	22	0	0
USITC	0	138	0	0	0
USPS	0	17	0	0	0
USTR	0	92	0	0	0
VA	0	53	0	0	0
Total	566	181,370	4,435	50,804	4,237

^aIncludes 2,310 FM 4193s, which was replaced by FM 4355.

^bIncludes 3,805 NSA G170s, 118 FR 106s, 12 FEMA 12-38s, 278 NASA SAP agreements, and 24 DOE 5630.18s.

Table II.22: Nondisclosure Agreements Signed by Contractor Employees in 1989

	Type of agreement					
Agency	SF 189A	SF 312	FM 4355°	DD 1847-1	Otherb	
AID	0	237	0	0	0	
DOD	12,000	138,000	0	4,692	3,713	
DOE	0	15,300	365	0	0	
FRS	0	0	4	0	0	
HHS	0	1	0	0	0	
Interior	0	2	0	0	0	
NASA	0	0	1	0	740	
NRC	0	827	0	0	0	
OPIC	0	1	0	0	0	
State	0	268	10	0	0	
Total	12,000	154,636	380	4,692	4,453	

 $^{^{\}rm a} lncludes$ 2 Form 4193s, which was replaced by FM 4355.

 $^{^{\}rm b} \text{Includes } 3{,}713 \text{ NSA G170Bs}$ and 740 NASA SAP agreements.

Sample Questionnaire

1. How many employees of your agency and employees of your contractors signed Standard Form (SF) 312 or Form 4355 during the period October 1, 1989 through March 31, 1990? (Please identify the forms used and the number signed.) (If actual numbers are unknown, please estimate the number and place an "E" after each estimate.)

If your agency maintains monthly figures, please also provide the numbers of each for the month of October 1989.

	Number of agre	ements signed by
Agreement	Agency employees	Contractor employees
SF 312 Form 4355		
Figures for October 1989: SF 312 Form 4355		

2. How much did your agency spend for the implementation, administration and execution of the forms identified in the previous question during the period October 1, 1989 through March 31, 1990? (If actual costs are unknown, please estimate the costs and identify them by placing an "E" after each estimate.)

If your agency maintains monthly figures, please also provide the numbers of each for the month of October 1989.

		plement the greements by
Agreement	Agency employees	Contractor employees
SF 312 Form 4355		
Figures for October 1989: SF 312 Form 4355		

3. Approximately how many books, articles, speeches, and other materials, by category, were reviewed during your agency's pre-publication review process required by Form 4355 and similar agreements during

Appendix III Sample Questionnaire

the period October 1, 1989 through March 31, 1990? Was the prepublication review required by regulation, SCI agreement, non-SCI Special Access Program (SAP) agreement, or for other reasons? If the number is not known, please give your agency's best estimate. Please enter the number on each line. (If none, enter "0".)

If your agency maintains monthly figures, please also provide the numbers of each for the month of October 1989.

		Туре	of material	
Reasons for prepublication review	Books	Articles	Speeches	Other (please specify)
Regulation				
SCI Agreement				
Non-SCI Agreement				
Other (please specify)				
Figures for October 1989:				
Regulation				
SCI Agreement				
Non-SCI Agreement				
Other (please specify)				

4. How much did your agency spend on pre-publication review during the period October 1, 1989, through March 31, 1990? (If actual costs are unknown, please estimate the costs and identify them by placing an "E" after each estimate.)

If your agency maintains monthly figures, please also provide the numbers of each for the month of October 1989.

Appendix III Sample Questionnaire

	Cost of prepublication review
Books Articles Speeches Other (please specify) Other (please specify)	\$
Figures for October 1989: Books Articles Speeches Other (please specify) Other (please specify)	\$

5. How many employees of your agency and employees of your contractors signed an SF 189, SF 189-A, SF 312, Form 4193, DD Form 1847-1 (for sci access), or other nondisclosure agreement during calendar years 1988 and 1989?

	Agency employees	Contractor employees
1988 SF 189 SF 189-A SF 312 Form 4193 Form 4355 DD Form 1847-1 (Other)		
1989 SF 189-A SF 312 Form 4193 Form 4355 DD Form 1847-1 (Other) (Other)		

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